

at Gulfport, Miss., alleging that the article had been shipped in interstate commerce on or about August 21, 1942, by the Dillon Candy Co., Inc., from Jacksonville, Fla.; and charging that it was misbranded. The article was labeled in part: (Jars) "Dubon Brand Net Wt. 6 Ozs. Peanut Butter \* \* \* Distributed By Dubon Company New Orleans La."

The article was alleged to be misbranded in that the statement "Net Wt. 6 Ozs." was false and misleading as applied to an article which was shortweight, and in that it was in package form and failed to bear a label containing an accurate statement of the quantity of the contents.

On June 22, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

### OILS AND FATS

**5087. Adulteration and misbranding of oils. U. S. v. Frank Arminante (Rinascente Oil Co.).** Plea of not guilty. Trial by jury. Verdict of guilty. Sentenced to 3 weeks in jail on each of 6 counts, the sentences to run concurrently. (F. D. C. No. 7288. Sample Nos. 56658-E, 56676-E, 56677-E.)

On March 31, 1943, the United States attorney for the Southern District of New York filed an information against Frank Arminante, trading as Rinascente Oil Co., at New York City, N. Y., alleging shipment and delivery for shipment within the period from on or about March 19 to May 20, 1941, from the State of New York into the State of Connecticut of quantities of oil that was adulterated and misbranded. Two of the shipments were labeled, respectively: "Italian Product Imported Virgin Olive Oil Super-Fine Brand Lucca Italy," and "Extra Fine Oil Superfine Brand." One shipment was labeled: "1 Gal."

The lot labeled "Olive Oil" was alleged to be adulterated in that an artificially flavored and artificially colored mixture of cottonseed oil and an oil similar to corn oil, containing little, if any, olive oil, had been substituted wholly or in part for olive oil, which it was represented to be. All lots of the oil were alleged to be adulterated (1) in that they were imitations of olive oil, consisting essentially of artificially flavored and artificially colored mixtures of cottonseed oil or oils similar to corn oil or soy oil, and were inferior to olive oil, such inferiority having been concealed by the addition of artificial flavoring and artificial coloring; (2) in that artificial flavoring and artificial coloring had been added thereto or mixed or packed therewith so as to make it appear better and of greater value than it was; and (3) in that it contained a coal-tar color, Quinizarine Green, other than one from a batch that had been certified to in accordance with the regulations as provided by law.

All lots were alleged to be misbranded (1) in that they consisted of mixtures of oils containing little, if any, olive oil and were colored and flavored in imitation of olive oil, and their labels did not bear in type of uniform size and prominence the word "imitation" and immediately thereafter the name of the food imitated; (2) in that they were in package form and did not bear labels containing the name and place of business of the manufacturer, packer, or distributor; and (3) in that they were fabricated from two or more ingredients and their labels did not bear the common or usual name of each such ingredient.

The portions labeled "Olive Oil" and "Fine Oil" were alleged to be misbranded further in that they contained artificial flavoring and artificial coloring and did not bear labeling stating those facts; and in that the words, statements, or other information required by or under authority of law to appear on the label or labeling were not placed thereon in such terms as to render them likely to be read and understood by the ordinary individual under customary conditions of purchase and use, since the tin label bore representations in the Italian language and, by reason of such representations, the article purported to be prepared for the Italian purchaser, and therefore the words, statements, and other information required by the act to appear on the label or labeling should appear thereon in the Italian language in order to be read and understood by the Italian purchaser, whereas such statements and other information did not appear on the labeling in that language.

The lot labeled in part "Olive Oil" was alleged to be misbranded further (1) in that the statements, "Italian Product Imported Virgin Olive Oil \* \* \* Lucca Italy. This Olive Oil is guaranteed to be absolutely pure under any chemical analysis. Recommended for table use and medical purposes. Imported Pure Olive Oil," (and similar statements in Italian) together with the design of olive branches, leaves, and olives, appearing on the tins, were false and misleading as applied to a mixture of cottonseed oil and an oil similar to corn oil, containing little, if any, olive oil; and (2) in that the product consisted of a mixture of cottonseed oil and an oil similar to corn oil and contained little, if any, olive oil, and it was offered for sale under the name of another food, olive oil.

On April 6, 1943, the defendant having entered a plea of not guilty, the case was tried to a jury on June 10, 14, and 15, 1943, and resulted in a verdict of guilty. On July 9, 1943, the defendant was sentenced to 3 weeks on each of the 6 counts of the information, the sentences to run concurrently.

**5088. Misbranding of oil. U. S. v. 16 Cans and 18 Cans of Oil. Default decree of condemnation. Product ordered delivered to a welfare organization.** (F. D. C. No. 9767. Sample Nos. 26923-F, 26924-F.)

On or about April 12, 1943, the United States attorney for the District of New Jersey filed a libel against 16 cans and 18 cans of oil at Plainfield, N. J., alleging that the article had been shipped in interstate commerce on or about March 2, 1943, by Antonio and Peter Bottone, from New York, N. Y.; and charging that it was misbranded. The article was labeled in part: "Net Contents One Gallon. Marca Risveglio Brand Extra Fine Oil," or "Finest Quality Purezza Brand \* \* \* One Gallon."

The article was alleged to be misbranded (1) in that the statements (Risveglio Brand) "Net Contents One Gallon," and (Purezza Brand) "One Gallon" were false and misleading as applied to the article, since it was short volume; (2) in that it was in package form and failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; (3) in that it failed to bear a label containing an accurate statement of the quantity of the contents; (4) in that it was fabricated from two or more ingredients and the label failed to bear the common or usual name of each such ingredient; and (5) in that it contained artificial coloring and failed to bear labeling stating that fact.

On July 8, 1943, no claimant having appeared, judgment of condemnation was entered and the product was ordered delivered to a welfare organization.

**5089. Adulteration and misbranding of mayonnaise. U. S. v. 15 Cases of Mayonnaise (and 7 additional seizure actions against mayonnaise). Default decrees of condemnation and destruction.** (F. D. C. Nos. 9217, 9218, 9246, 9247, 9321, 9322, 9334, 9354. Sample Nos. 19554-F, 22594-F, 23159-F, 23160-F, 23164-F, 23213-F, 23217-F, 23218-F.)

Between January 19 and February 10, 1943, the United States attorneys for the Eastern District of Pennsylvania, the Middle District of Pennsylvania, and the District of Massachusetts filed libels against 33 cases, each containing 4 1-gallon jars, and 30 1-gallon jars of mayonnaise at Philadelphia, Pa.; 13 cases, each containing 4 1-gallon jars, and 35 1-gallon jars, of mayonnaise at Allentown, Pa.; 6 cases, each containing 4 1-gallon jars and 3 1-gallon jars, of mayonnaise at Wilkes-Barre, Pa.; 13 1-gallon jars of mayonnaise at Hazleton, Pa.; and 26 1-gallon jars of mayonnaise at Boston, Mass., alleging that the articles had been shipped in interstate commerce within the period from on or about November 25 to December 19, 1942, by H. L. Barker, Inc., from New York, N. Y.; and charging that it was adulterated and misbranded. The article was labeled in part: (Jars) "Mayonnaise Quality Supreme Contains Vegetable Salad Oil."

The article was alleged to be adulterated (1) in that a valuable constituent, vegetable oil, had been in whole or in part omitted therefrom; (2) in that a substance containing mineral oil had been substituted wholly or in part for mayonnaise, which it purported and was represented to be; and (3) in that mineral oil, having no food value, had been added to the article or mixed or packed therewith so as to reduce its quality or strength.

The article was alleged to be misbranded: (1) in that the statement "Mayonnaise Quality Supreme \* \* \* Vegetable Salad Oil," appearing in the labeling, was false and misleading as applied to an article made with mineral oil, a non-nutritive substance; (2) in that it was offered for sale under the name of another food; and (3) in that it was in package form and failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor. A portion was alleged to be misbranded further in that it failed to bear a label containing an accurate statement of the quantity of the contents. One lot was alleged to be misbranded further in that it was fabricated from two or more ingredients and its label failed to bear the common or usual name of each ingredient since it contained egg whites, which was not mentioned in the label.

Between February 8 and May 20, 1943, no claimant having appeared, judgments of condemnation were entered and the product was ordered destroyed.

#### VITAMIN PREPARATIONS AND FOODS FOR SPECIAL DIETARY USES

**5090. Adulteration and misbranding of Dina-Mite Cereal. U. S. v. 25 Cans of Dina-Mite Cereal. Default decree of condemnation and destruction.** (F. D. C. No. 9194. Sample No. 12795-F.)

On January 25, 1943, the United States attorney for the District of Idaho filed a libel against the above-named product at Twin Falls, Idaho, alleging that the article